

**IN THE UNITED STATES COURT
OF FEDERAL CLAIMS**

HIGHMARK, INC, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 20-1686 C
Judge Kaplan

JOINT STATUS REPORT

Pursuant to the Court's October 2, 2023 order (ECF No. 59), the parties respectfully submit this joint status report to request that the Court continue the stay of this case for 60 days.

As the parties reported to the Court in their September 29, 2023 Joint Status Report (ECF No. 58), this case is currently stayed because the Government is working with a number of CSR Plaintiffs to determine whether they may efficiently resolve this and other pending CSR matters without further litigation or at least streamline these cases. The parties to a number of these CSR cases, including this one, have stipulated to entry of partial final judgment as to the CSR amounts owed by the Government for 2017. On September 23, 2022, with leave of this Court, the Plaintiffs filed an Amended Complaint to recover CSR payments due to Plaintiffs for 2018-21. On October 2, 2023, the Court ordered the parties to file a joint status report on or before November 28, 2023.

Pursuant to the Court's October 2, 2023 order, the parties respectfully submit this Joint Status Report. As stated in the parties' previous Joint Status Report, counsel for the parties have reached a tentative agreement in principle on a methodology by which the

parties believe some of these CSR cases can be settled, including this case. This settlement methodology has been reviewed by officials at both the Department of Health and Human Services and the Department of Justice, but the actual settlement of each CSR case applying that methodology must be approved and accepted by Defendant and each participating CSR plaintiff before it can be finally authorized. Defendant is proposing for the plaintiffs' consideration a process to gather and verify certain relevant data to determine and calculate the damages that may be owed to a given CSR plaintiff insurer for a given year pursuant to the agreed-upon methodology. Once the agreed-upon relevant data is gathered and verified, each plaintiff will have the option of participating in the proposed settlement process, subject to the approval process described above, or continuing instead with litigation. The parties also are working to complete a draft form settlement agreement and release to be used by the parties as a template for each case that the parties have agreed to settle.

Defendant expects to share a draft settlement agreement template to plaintiffs by December 1, 2023, and a timeline for its proposed data gathering and verification process to plaintiffs by December 15, 2023. Therefore, the settlement agreement and approval process for these CSR cases will take additional time to complete. We thus respectfully request that the Court continue the stay in this case for 60 days, until Friday, January 26, 2024, at which time the parties propose to update the Court regarding the current status of the settlement process in this CSR case and others.

November 28, 2023

Respectfully submitted,

/s/ Lawrence S. Sher

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